

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of an Investigation Regarding
Qwest's Compliance with Section 271 of the
Telecommunications Act of 1996 with
Respect to the Provisions of InterLATA
Services Originating in Minnesota

PUC Docket No. P-421/CI-96-1114
OAH Docket No. 12-2500-14473-2

In the Matter of a Commission Investigation
into Qwest's Compliance with Section
271(c)(2)(B) of the Telecommunications Act
of 1996; Checklist items 3, 7, 8, 9, 10, and
12

PUC Docket No. P-421/CI-01-1370
OAH Docket No. 12-2500-14485-2

In the Matter of a Commission Investigation
into Qwest's Compliance with Section
271(c)(2)(B) of the Telecommunications Act
of 1996; Checklist items 1, 2, 4, 5, 6, 11, 13,
and 14

PUC Docket No. P-421/CI-01-1371
OAH Docket No. 7-2500-14486-2

In the Matter of a Commission Investigation
into Qwest's Compliance with Section 272 of
the Telecommunications Act of 1996's
Separate Affiliate Requirement

PUC Docket No. P-421/CI-01-1372
OAH Docket No. 7-2500-14487-2

In the Matter of a Commission Investigation
into Qwest's Compliance with Section
271(d)(3)(C) of the Telecommunications Act
of 1996 That the Requested Authorization is
Consistent with the Public Interest,
Convenience and Necessity

PUC Docket No. P-421/CI-01-1373
OAH Docket No. 6-2500-14488-2

In the Matter of the Commission's Review
and Investigation of Qwest's Unbundled
Network Element (UNE) Prices

PUC Docket No. P-421/CI-01-1375
OAH Docket No. 12-2500-14490-2

In the Matter of the Request of Covad to
Define and Price a Line Sharing over DLC
UNE to be offered by Qwest

PUC Docket No. P-421/CI-02-293
OAH Docket No. 12-2500-14765-2

SEVENTEENTH PREHEARING ORDER

These matters came on for prehearing conference before Administrative Law Judge Steve M. Mihalchick on May 3, 2002. The conference was conducted by telephone.

The following persons noted their appearances at the prehearing conference:

Norton Cutler for Qwest.

Gregory Merz for AT&T.

Linda Jensen, Assistant Attorney General, for the Department of Commerce.

Lesley Lehr and for WorldCom.

Megan Dobernack for Covad.

MOTIONS TO COMPEL

1. Qwest moved for an order compelling AT&T to provide detailed responses to discovery requests in a number of areas. Responses are sought concerning rates, calculations and assumptions used in the HAI xDSL Adjunct Model. Responses are sought regarding the assumptions supporting testimony of subject matter experts on the HAI Model Release. Qwest also requested an order requiring Department of Commerce witnesses, particularly Wes Legursky, to appear for deposition by telephone.

2. AT&T responded that the information sought by Qwest relating to customer location in the HAI Model is proprietary to Taylor-Nelson-Sofres Telecom ("TNS data"). AT&T indicated that the information sought regarding supporting testimony was identities of data local exchange carriers (DLECs) that had provided information. These DLECs had been promised confidentiality when they provided the information.

3. At the telephone conference, AT&T and Qwest indicated that much of the requested discovery had been provided. The only remaining issues concerned the TNS data and the identities of DLECs that provided information.

4. Qwest acknowledged that some of the TNS data was available or could be purchased. Qwest objected to TNS not releasing the "algorithms that are used to place the surrogate points, create clusters, calculate the MST distances, and . . . intermediate results of geocoding, road surrogation, or the raw cluster results."^[1] AT&T responded that it does not have that data. The raw cluster data, according to AT&T, is available through the FCC's Universal Service docket.^[2] AT&T indicated that it uses polished cluster data and that such data can be provided.

5. Since AT&T does not have the TNS data sought by Qwest, the Motion to Compel production of that information is DENIED.

6. Qwest maintains that the identity of DLECs should be discoverable. AT&T indicated that the identify of these DLECs have not been made available to AT&T or Worldcom. Only the staffer who obtained the information knows its source^[3] The offer of confidentiality was made to assure the DLECs that no adverse effect on their business relations would result from the sharing of information. AT&T also noted that Qwest has protected similar vendor information by masking identities.^[4]

7. AT&T has demonstrated a legitimate reason to not disclose the identities of third-party DLECs that provided information. Qwest is entitled to the identities of any WorldCom-related or AT&T-related DLECs that provided information. AT&T shall supplement its responses to Qwest's information requests to clarify whether any of the DLECs that provided information are WorldCom-related or AT&T-related. AT&T shall identify any sources of information from DLECs that are WorldCom-related or AT&T-related.

8. Qwest requested the taking of Mr. Legursky's deposition. The Department of Commerce declined the request, citing the workload being handled in preparation for hearing and responding to recent information requests by Qwest.^[5] Qwest agreed to await the responses to those information requests before seeking Mr. Legursky's deposition. Qwest's motion is therefore DENIED.

Dated: May 7, 2002

/s/ Steve M, Mihalchick
STEVE M. MIHALCHICK
Administrative Law Judge

^[1] Conference Transcript, at 5-6.

^[2] Conference Transcript, at 9. More information on that docket is available from the FCC at http://www.fcc.gov/wcb/universal_service/welcome.html.

^[3] Conference Transcript, at 17.

^[4] Conference Transcript, at 18.

^[5] Conference Transcript, at 27.